

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

William A. Hansen,

Complainant,
vs.

PROBABLE CAUSE
ORDER

Jason Stone,

Respondent.

The above-entitled matter came on for a telephone probable cause hearing as provided by Minn. Stat. § 211B.34, before Administrative Law Judge Bruce H. Johnson on October 18, 2005, to consider a complaint filed by William A. Hansen on October 14, 2005.

William Hansen, 3723 East Minnehaha Parkway, Minneapolis, MN 55417, participated on his own behalf ("Complainant").

Jason Stone, 1708 57th Street East, Minneapolis, MN 55417, participated on his own behalf ("Respondent").

Based upon the record and all of the proceedings in this matter, including the Memorandum incorporated herein, the Administrative Law Judge finds that there is probable cause to believe that the Respondent violated Minnesota Statute § 211B.04 by failing to have proper disclaimers on his campaign literature and lawn signs.

ORDER

IT IS HEREBY ORDERED:

1. That there is probable cause to believe that Respondent violated Minnesota Statute § 211B.04.

2. That this matter is referred to the Chief Administrative Law Judge for assignment to a panel of three administrative law judges pursuant to Minnesota Statute § 211B.35 for disposition based on the record created during the probable cause hearing.

Dated: October 21, 2005

/s/ Bruce H. Johnson
BRUCE H. JOHNSON
Administrative Law Judge

MEMORANDUM

Jason Stone is a candidate in the November 8, 2005, election for the Minneapolis Parks and Recreation Board's District 5 seat. The Complaint alleges that Mr. Stone prepared and distributed campaign flyers and lawn signs without disclaimers as required by Minn. Stat. § 211B.04.

Campaign material is defined to mean "any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election, except for news items or editorial comments by the news media."^[1] Campaign material is required, under Minn. Stat. § 211B.04(a) and (b),^[2] to include a disclaimer identifying the name and address of the person or committee that prepared or disseminated the material.

Minn. Stat. § 211B.04 states, in relevant part:

(a) A person who participates in the preparation or dissemination of campaign material other than as provided in section 211B.05, subdivision 1, that does not prominently include the name and address of the person or committee causing the material to be prepared or disseminated in a disclaimer substantially in the form provided in paragraph (b) or (c) is guilty of a misdemeanor.

(b) Except in cases covered by paragraph (c), the required form of disclaimer is: "Prepared and paid for by the committee,(address)" for material prepared and paid for by a principal campaign committee, . . .

Respondent's campaign flyer^[3] states in small print at the bottom: "PREPARED AND PAID FOR BY THE JASON FOR PARKS COMMITTEE, SHIREEN STONE, TREASURER." The disclaimer does not include an address. However, the flyer does include a picture of the Respondent with his telephone number and email address.

Respondent concedes that he failed to include an address in the disclaimer on his campaign flyer. He explained that the lack of the address was inadvertent and the result of an oversight on his part. However, Respondent points out that the flyer had limited distribution and that he has since prepared another campaign flyer,^[4] which has a disclaimer in the exact form provided in Minn. Stat. § 211B.04(b).

Respondent also admits that he failed to include an address in the disclaimer on his lawn signs.^[5] Like the flyer, the disclaimer on the lawn signs reads: "PREPARED AND PAID FOR BY THE JASON FOR PARKS COMMITTEE, SHIREEN STONE, TREASURER." The Respondent argues, however, that he believed the lawn signs were "objects" within the meaning of Minn. Stat. § 211B.04, subd. (e) and did not require a disclaimer. Respondent's

lawn signs state: “Jason STONE FOR PARK BOARD Sierra Club Endorsed.” In the right hand corner of the signs are the words: “REFORM ENDORSED” with a picture of a pine tree between the two words.

Minn. Stat. § 211B.04, subd. (e) provides that objects “stating only the candidate’s name and the office sought” do not require a disclaimer. Mr. Stone’s lawn signs contain more than just his name and the office sought. The signs state that Mr. Stone is “Sierra Club endorsed” and “Reform Endorsed.” However, it also appears that Mr. Stone’s lawn signs fall within the definition of “campaign material.”

The purpose of a probable cause hearing is to determine whether there are sufficient facts in the record to believe that a violation of law has occurred as alleged in the complaint.^[6] The material facts in this case are not in dispute. What may be in dispute is how the law should be applied to the facts, and that is more appropriately done in a proceeding on the merits. The Administrative Law Judge finds that there is sufficient probable cause to believe that violations of Minn. Stat. § 211B.04 occurred. Therefore, this matter will be referred to the Chief Administrative Law Judge for assignment to a panel of three Administrative Law Judges to determine whether a violation of law occurred and what disposition is appropriate.^[7] Pursuant to an agreement of the parties, the panel will make its decision based on the record created at the probable cause hearing.

B.H.J.

^[1] Minn. Stat. § 211B.01, subd. 2.

^[2] Minn. Stat. § 211B.04; Minn. Laws 2004 ch. 293, art. 3, §§ 1 & 2.

^[3] Ex. 1.

^[4] Ex. 6.

^[5] Exs. 2-5.

^[6] Minn. Stat. § 211B.34, subd. 2.

^[7] Minn. Stat. § 211B.35, subd. 2.